

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 70.411

(6) Section 5731 (relating to special tax on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors); or

(7) Section 5802 (relating to importers, manufacturers and dealers of National Firearms Act weapons).

For provisions with respect to the registration of persons subject to the special tax imposed by section 5131, relating to the tax on persons claiming drawback on distilled spirits used in the manufacture of certain nonbeverage products, see section 5132 of the Internal Revenue Code and 27 CFR part 17 Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products).

(b) *Procedure for registration.* The registration required of a person by reason of the person being engaged in a trade or business, in respect of which one of the special taxes listed in paragraph (a) of this section is imposed, shall be accomplished by timely executing and filing, in accordance with the instructions relating thereto, ATF Form 5630.5, Special Tax Registration and Return.

(Approved by the Office of Management and Budget under control number 1512-0472)

(26 U.S.C. 5802, 7011)

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-271, 53 FR 17549, May 17, 1988. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47653, Nov. 14, 1990; T.D. ATF-379, 61 FR 31426, June 20, 1996]]

CRIMES, OTHER OFFENSES AND FORFEITURES

SOURCE: Sections 70.331 through 70.333 added by T.D. ATF-301, 55 FR 47653, Nov. 14, 1990, unless otherwise noted.

§ 70.331 Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Bureau any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation) or imprisoned not more than 1 year, or both.

(26 U.S.C. 7207)

§ 70.332 Unauthorized use or sale of stamps.

Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in the Internal Revenue Code or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Director under provisions of 26 U.S.C. enforced and administered by the Bureau for the collection or payment of any tax imposed thereunder, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

(26 U.S.C. 7209)

§ 70.333 Offenses by officers and employees of the United States.

Any officer or employee of the United States acting in connection with any provisions of 26 U.S.C. enforced and administered by the Bureau required to make a written report under the provisions of 26 U.S.C. 7214(a)(8) shall submit such report to the Director, or to a regional director (compliance) or to the Chief, Tax Processing Center.

(26 U.S.C. 7214)

Subpart E—Procedural Rules Relating to Alcohol, Tobacco, Firearms, and Explosives

SOURCE: T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47653, Nov. 14, 1990.

PROVISIONS RELATING TO DISTILLED SPIRITS, WINES, AND BEER

§ 70.411 Imposition of taxes, qualification requirements, and regulations.

(a) *Imposition of taxes.* Subchapter A of Chapter 51 of the Internal Revenue Code of 1954 imposes taxes on distilled spirits (including alcohol), wine and beer. Occupational taxes are imposed upon brewers, dealers in liquors, and proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses; on industrial users of tax-free distilled spirits; on dealers, users, and recoverers of specially denatured spirits; and as a prerequisite for drawback

under section 5134 of the Internal Revenue Code, upon manufacturers of non-beverage products.

(b) *Qualification requirements.* Distillers, winemakers, brewers, warehousemen, rectifiers, bottlers, dealers in specially denatured alcohol, users of tax-free and specially denatured alcohol, and wholesalers and importers of liquors, are required to qualify with ATF usually by filing notice or application and bond with, and procuring permit from, the regional director (compliance), of the ATF region in which operations are to be conducted. Detailed information respecting such qualification, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in paragraph (c) of this section.

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the ATF are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and the contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the office of any regional director (compliance). ATF Publication 1322.1, which contains a listing of alcohol, tobacco, and firearms public-use forms, may be obtained from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

(1) *Establishment and operation of distilled spirits plants.* Part 19 of title 27 CFR contains the regulations relating to the location, qualification, construction, arrangement, equipment, and operations (including activities incident thereto) of distilled spirits plants for the production and/or warehousing (including denaturation), and bottling (including bottling in

bond) of distilled spirits. Part 19 also contains the regulations relating to distilled spirits for fuel use and the production of vinegar by the vaporizing process.

(2) *Miscellaneous liquor transactions.* Part 170 of 27 CFR contains miscellaneous regulations relative to the manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor.

(3) [Reserved]

(4) *Gauging of distilled spirits.* Part 30 of title 27 CFR contains the regulations that prescribe the gauging instruments, and methods or techniques to be used in measuring distilled spirits (including denatured spirits). Tables are provided for use in making the necessary computation from gauge data.

(5) *Rules of practice in permit proceedings.* Part 200 of title 27 CFR contains the rules governing the procedure and practice in connection with the disapproval of applications for basic permits, and for the issuance of citations for the suspension, revocation, and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*), and disapproval, suspension, and revocation of industrial use, operating, withdrawal, and tobacco permits under the Internal Revenue Code. Such rules also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record, after opportunity for hearing, under laws administered by the Bureau of Alcohol, Tobacco and Firearms.

(6) *Basic permit requirements under the Federal Alcohol Administration Act.* 27 CFR part 1, issued pursuant to the Federal Alcohol Administration Act, as amended, contains the requirements relative to the issuance under the Act of basic permits to producers, rectifiers, blenders, bottlers, warehousemen, importers, and wholesalers of distilled spirits, wine, or beer, and the amendment, duration, revocation, suspension, or annulment of such permits.

(7) *Bulk sales and bottling of distilled spirits.* 27 CFR part 3, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to bulk sales and bottling of

distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk.

(8) *Labeling and advertising of distilled spirits.* 27 CFR part 5, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of distilled spirits under the Federal Alcohol Administration Act, including standards of identity for distilled spirits, standards of fill for bottles of distilled spirits, withdrawal of bottled imported distilled spirits from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(9) *American viticultural areas.* Part 9 of title 27 CFR contains the regulations that relate to American viticultural areas. The viticultural areas described in these regulations are approved for use as appellations of origin in accordance with 27 CFR part 4.

(10) *Production and removal of wine.* Part 24 of title 27 CFR contains the regulations relative to the establishment and operation of bonded wine cellars, including bonded wineries, for the production, cellar treatment, and storage of wines, including amelioration, sweetening, addition of volatile fruit flavor concentrates, addition of wine spirits (including distillates containing aldehydes), blending, and other cellar treatment; removals; taxpayment; return of unmerchantable taxpaid wine; use of wine for distilling material and manufacture of vinegar; and record and report requirements.

(11) *Bottling or Packaging of taxpaid wine.* Part 24 of title 27 CFR contains the regulations relative to the establishment, qualification, and operations of taxpaid wine bottling houses on premises other than those of a plant operated under part 19 of title 27 CFR, and to the bottling and packaging of taxpaid United States and foreign wines at such premises.

(12) *Nonindustrial use of distilled spirits and wine.* 27 CFR part 2, issued under the Federal Alcohol Administration Act, as amended, specifies what uses of distilled spirits and wine are considered "nonindustrial," as that term is used in section 17 of the Federal Alcohol Administration Act.

(13) *Labeling and advertising of wine.* 27 CFR part 4, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of wine under the Federal Alcohol Administration Act, including standards of identity for wine, standards of fill for containers of wine, the withdrawal of imported wine from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(14) *Establishment and operations of breweries and experimental breweries.* Part 25 of title 27 CFR contains the regulations relating to the production (including concentration and reconstitution incident thereto) and removal of beer and cereal beverages. The regulations cover the location, construction, equipment, and operations of breweries; and the qualification of such establishments, including the ownership, control, and management thereof, and the establishment and operations of experimental breweries.

(15) *Labeling and advertising of malt beverages.* 27 CFR part 7, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of malt beverages (beer) under the Federal Alcohol Administration Act, including withdrawal of imported malt beverages from customs custody, and the issuance of certificates of label approval.

(16) *Liquor dealers.* Part 194 of title 27 CFR contains the regulations relative to the special (occupational) taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; restrictions on purchases of distilled spirits; reuse or refilling of liquor bottles; sale or possession of refilled or used liquor bottles; repackaging of alcohol for industrial use; recordkeeping and reporting requirements; and provisions relating to entry of premises and inspection of records by ATF officers.

(17) *Drawback of tax on spirits used in nonbeverage products.* Part 17 of title 27 CFR contains the regulations which relate to obtaining drawback of internal revenue tax on distilled spirits used in the manufacture or production of medicines, medicinal preparations, food

products, flavors, or flavoring extracts, which are unfit for beverage purposes.

(18) *Production of volatile fruit-flavor concentrates.* Part 18 of title 27 CFR contains the regulations relating to the manufacture, removal, sale, storage, transfer in bond, transportation, recordkeeping and reporting requirements, and use of volatile fruit flavor concentrates. It includes provisions regarding the location, qualification, use, and operations of concentrate plants.

(19) *Tied-House.* 27 CFR part 6, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (b) of section 5 of the Act and provides the exception to these prohibitions. This part applies only to transactions between industry members and retailers.

(20) *Exclusive outlets.* 27 CFR part 8, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (a) of section 5 of the Act. This part applies only to transactions between industry members and retailers.

(21) *Commercial bribery.* 27 CFR part 10, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (c) of section 5 of the Act. This part applies to transactions between industry members and employees, officers, or representatives of trade buyers.

(22) *Consignment sales.* 27 CFR part 11, issued under the Federal Alcohol Administration Act, as amended, specifies sales arrangements prohibited by subsection (d) of section 5 of the Act and contains guidelines concerning the return of distilled spirits, wines, and malt beverages from a trade buyer. The regulations in this part apply to transactions between industry members and trade buyers.

(23) *Distribution and use of denatured alcohol and rum.* Part 20 of title 27 CFR contains the regulations relating to the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits; and includes requirements in respect to industrial use and withdrawal permits; and the packaging, labeling, sales, rebottling,

and reprocessing of articles containing specially denatured spirits.

(24) *Formulas for denatured alcohol and rum.* Part 21 of title 27 CFR contains the regulations relating to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the use of specially denatured spirits; and to the specifications for denaturants. The procedural requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in part 19 of title 27 CFR, and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in part 20 of title 27 CFR.

(25) *Distribution and use of tax-free alcohol.* Part 22 of title 27 CFR contains the regulations relating to tax-free alcohol and covers the procurement, storage, use, and recovery of such alcohol; and included requirements in respect to industrial use and withdrawal permits.

(26) *Liquors and articles from Puerto Rico and the Virgin Islands.* Part 250 of title 27 CFR contains the regulations relating to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands. Regulations respecting spirits produced in Puerto Rico or the Virgin Islands and brought into the United States and transferred from customs custody to internal revenue bond are also contained in this part.

(27) *Importation of liquors.* Part 251 of title 27 CFR contains the substantive and procedural requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, and labeling of containers and packages.

(28) *Exportation of liquors.* Part 252 of title 27 CFR contains the regulations relating to exportation including, where applicable, lading for use on vessels and aircraft, transfer to a foreign-

trade zone, or transfer to a manufacturing bonded warehouse, Class 6, of distilled spirits (including specially denatured spirits), beer (including beer concentrate), and wine, and transfer of distilled spirits and wine for deposit in a customs bonded warehouse, whether without payment of tax, free of tax, or with benefit of drawback. It includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

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§ 70.412 Excise taxes.

(a) *Collection.* Taxes on distilled spirits, wines, and beer are paid by returns. If the person responsible for paying the taxes has filed a proper bond with the regional director (compliance), such person may file semimonthly returns, with proper remittances, to cover the taxes incurred on distilled spirits, wines, and beer during such semimonthly period. Payment must accompany the return unless required to be made by electronic fund transfer (EFT). If the taxpayer is not qualified to defer taxpayment, or has been placed on a prepayment basis by the regional director (compliance), the taxpayer must prepay the tax on the distilled spirits, wines, or beer. Distilled spirits, wines, and beer tax returns are filed in accordance with the instruction on the return forms, which are furnished to industry members by ATF. Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, manufacturers of nonbeverage products, and industrial users of tax-free distilled spirits; by dealers, users, and recoverers of specially denatured spirits; and by proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses. Detailed information respecting the payment of tax on liquors and the payment of occupational taxes,

including the forms to be used and procedures to be followed, is contained in the respective regulations described in § 70.411(c).

(b) *Assessment.* If additional or delinquent tax liability is disclosed by an investigation, or by an examination of records, of a qualified plant or permittee, a notice (except where delay may jeopardize collection of the tax, or where the amount involved is nominal or the result of an evident mathematical error) is sent to the taxpayer advising of the basis and amount of the liability and affording the taxpayer an opportunity to submit a protest, with supporting facts, or to request a conference.

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[T.D. ATF-251, 52 FR 19325, May 22, 1987, as amended by T.D. ATF-271, 53 FR 17549, May 17, 1988. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47653, Nov. 14, 1990]

§ 70.413 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits), wine, or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, such person may file claim on Form 5620.8 for remission of tax on the quantity that was lost. The regional director (compliance) may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary destruction. On receipt of a claim the regional director (compliance) makes a factual determination, and notifies the claimant of allowance or rejection of the claim. If the claim is rejected, and circumstances so warrant, the regional director (compliance) will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on ATF Form 5620.8 with the official who made demand for